

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

ADDISON CENTRAL SCHOOL)	
DISTRICT, <i>et al.</i> ,)	
)	
Plaintiffs,)	Case No.: 2:23-CV-00164-CR
)	
v.)	
)	
MONSANTO COMPANY, <i>et al.</i> ,)	
)	
Defendants.)	

PLAINTIFFS' MOTION TO ESTABLISH A BELLWETHER PROCESS

This civil action is a multi-plaintiff case brought by 92 Vermont public school district Plaintiffs covering multiple school properties contaminated by poly-chlorinated biphenyls (PCBs), with Plaintiffs seeking damages, abatement, remediation, and other relief as against the Defendants. The Federal Rules of Civil Procedure allow for the implementation of Case and Trial Management Orders to deal with complex and time-consuming litigation, and allow for the uniform administration and management of the Court's docket.

Due to the public health and K-12 education issues bound up in this civil action, it is important that these cases get resolved in an efficient, orderly, and timely process, as such is in the best interests of the Parties, the public, and the judicial system. Selection of bellwether plaintiffs is the best method of securing fairness and expedition of these cases and plaintiffs' claims, while conserving the time and resources of the Parties and the Court. Selection of bellwether plaintiffs for discovery and resolution is a commonly used process in multiple plaintiff cases involving the same or similar general liability issues and the same or similar defendants.

This motion will help facilitate the resolution of the entire civil action in an expeditious manner at a time when the State of Vermont funding for limited PCB testing has been exhausted and with no additional funds having been appropriated for abatement, remediation, or damages for any particular school district plaintiff or for them collectively.

In good faith Plaintiffs' counsel and Defendants' counsel met unsuccessfully on the subject matter of this Motion. Plaintiffs respectfully request that the following bellwether process be implemented.

1. **Filing Procedures, Case Captions, & Service.** The Plaintiffs move the Court to establish three categories of filings:

A. **Single Plaintiff Filings.** A pleading, motion, or paper affecting only an individual Plaintiff shall be filed according to normal procedures, but with the title of the pleading, motion, or paper indicating clearly which single plaintiff is involved identified in a "*Pertains To*" caption.

B. **"All Plaintiffs" Filings.** A pleading, motion, or paper affecting "All Plaintiffs" shall show same in the caption for such pleading, as illustrated below, shall state: "*Pertains to: All Plaintiffs*".

C. **Multiple Plaintiff Filings.** A pleading, motion, or paper affecting more than one but fewer than all Plaintiffs shall be docketed and filed in each individual case identified in a "*Pertains To*" caption.

2. **Bellwether Selection.** Given the number of Plaintiffs and properties of school districts filed in this action, the complex legal issues involved, common issues to be determined, and the anticipated length of each trial and accompanying discovery, the

Plaintiffs move to establish waves of discovery and bellwether trials as follows:

A. The Plaintiffs will identify three (3) Plaintiffs to be designated as Group 1. The Group 1 Plaintiff School Districts then would be fully discovered by the parties. The remaining groups of Plaintiffs would be identified in groups of ten (10) plaintiffs each, and be identified as Group 2 Plaintiff School Districts, *et seq.*

B. Except for a need to preserve evidence or testimony, discovery in all other Groups would be stayed pending resolution and/or trial of the Group 1 Plaintiffs. After Group 1 cases are tried or resolved, the Court would enter additional case management or scheduling orders to guide the management of each remaining Plaintiff Groups.

C. The trial date for the Group 1 Plaintiffs should be set as soon as possible for the benefit of the Parties to prepare for that first trial. This initial trial date should be consistent with the Court's normal

D. Only Group 1 Plaintiffs should be subject to discovery and/or supplementation at this time. Pending their Group being put back into an active discovery and trial schedule, the non Group 1 Plaintiffs would receive an extension of time to respond to said discovery until such time as they become a group set for discovery and resolution after the Group 1 cases are resolved.

E. A Case Management Order should be discussed by and submitted by the Parties for consideration by the Court as to Group 1 Plaintiffs, including new deadlines for the completion of discovery and expert witness disclosures and depositions. If the Parties cannot agree on certain dates or matters, then only such dates or matters should be submitted to the Court for consideration and determination.

F. This same process, as requested above, should be repeated for each Group of

Plaintiffs, starting with Group 2 and proceeding *in seriatim*.

Wherefore, premises considered, Plaintiffs respectfully move the Court to implement the foregoing bellwether process and for such other provisions that are necessary to the Court's orderly and efficient administration of the bellwether process and the ultimate resolution of this entire civil action.

Dated: April 4, 2024.

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